

**California Department of Transportation
Native American Advisory Committee
Quarterly Meeting Minutes
May 5, 2004**

Chairman Joseph Myers called the meeting to order at 9:05 a.m.

Welcome and Introductions: Chairman Myers welcomed everyone to the meeting. Introductions were made after the Roll Call.

Roll Call: Committee members in attendance were Joel Bravo; Barbara Burke; Samuel Elizondo; Joe Garcia; Greg Nesty, alternate for Ken King Jr.; Dr. Ali Kashani, alternate for Chairperson Deron Marquez; Joseph A. Myers; Dave Nenna; Patricia Ockert; Ben Scerato; and Richard Warner.

Director's Representatives, Kazem Attaran, Chief, Office of Transportation Economics; and Cynthia Gomez, Acting Chief, Office of Regional and Interagency Planning were also in attendance.

Others in attendance included: Rebecca Davis, San Diego County Association of Governments' Native American Liaison; Evan Hong, Coordinator with TTAP; Lee Bigwater, TTAP; Sherry Johnstone, Department of Transportation, Title VI Coordinator; Newell Mann, Federated Indians of Graton Rancheria; Gayle McIntyre, Department of Transportation, Division of Mass Transportation; Jake Smith, Department of Transportation, Division of Mass Transportation; Mario Orso, Department of Transportation, District 11 Native American Liaison; Jila Priebe, Department of Transportation, Native American Liaison Branch; Kathleen Sartorius, District 1,2,3 North Region, Native American Liaison; Brian Travis, District 1 Regional Transportation Planning, Kathleen McClafflin, Native American Liaison.

Adopt Agenda: The Committee accepted the Agenda.

Approve Minutes: The minutes of the January 14, 2004 meeting were approved. Motion by Patricia Ockert; seconded by Joe Garcia. Vote was 11 Yes, 0 Against.

OLD BUSINESS:

1. **Business, Transportation, and Housing Agency (BTH)** Chairman Myers explained that the Secretary of the BTH, Sunne Wright McPeak, was invited to the NAAC meeting but was unable to attend. Chairman Myers noted that perhaps in an upcoming meeting with the Acting Director of the Department of Transportation (Department), they might have an opportunity to discuss the potential for the Secretary to attend a future NAAC meeting.
2. **Environmental Justice Film (EJ)** Chairman Myers introduced the EJ film/video, which is approximately 29 minutes in length and primarily addresses transportation issues in Indian Country. He invited anyone wanting a copy of the video to leave a name and address with Jila Priebe. He mentioned, although not addressed in this particular video, transit services also need to be reviewed and addressed. Chairman Myers said that Regional Transportation Planning Agencies are beginning to talk about transportation issues relating to Indian Country, but "we still

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do not see many Indians at the table in their meetings.” Cynthia thanked Joe for the National Indian Justice Center’s work on the EJ Film/Video.

Cynthia explained the presence of a photographer and a reporter at the meeting; she mentioned that the filming taking place will be used for the American Association of State Highway and Transportation (AASHTO) civil rights conference and web site.

AASHTO is a non-profit, non-partisan organization representing highway and transportation departments in 50 states, the District of Columbia, and Puerto Rico. The work AASHTO does is usually done by Committees, people serving voluntarily, and it provides a forum for considering transportation issues, and is frequently called upon by Congress to conduct surveys, provide data, and testify on transportation legislation. AASHTO has several meetings throughout the year; AASHTO’s National Civil Rights Conference will be held in San Diego, September 3-8, 2004, at the Marriott Hotel and Marina.

3. Report of Traffic Safety Project Grant Cynthia stated the grant had finally been approved. This project will develop a campaign with different reservations, to be used for the purposes of traffic safety education. It could possibly go out to bid in July or August, and the Project would start after November 2004. The bid announcement will go out to the Tribes as well. The Chairman raised the question, “Can Tribes bid on the project?” There is no reason why they can’t.

4. Environmental Subcommittee Report Jila shared that the Environmental Subcommittee met March 4th to discuss developing a memo on Government-to-Government consultation and Section 106 consultation. This memo is being developed to distinguish between the two types of consultation, i.e. Government-to-Government and Section 106. She mentioned that the memo, “Native American Monitors” has been approved and signed. The memo can be found on the Caltran’s Environmental Program website. The memo will proceed as a statewide Department’s policy for hiring and selecting Native American monitors on Department projects.

The Environmental Subcommittee meets again on May 19th in Woodland, and will continue to work on the development of the “Government-to-Government consultation vs. Section 106 consultation memo.” The Subcommittee is also reviewing a form to develop “Consultation Protocol with Tribes”, which was given to the Subcommittee by Kesner Flores from Cortina Rancheria. Kesner is currently working with a Subcommittee in conjunction with other federal agencies and Tribes to develop a protocol for consultation. A copy of the form, “Consultation Protocol with Tribes”, and a copy of the Discussion Points regarding the Tribal Consultation Process were both distributed to the NAAC members for their review and comments. The Environmental Subcommittee will present the final products and comments to the NAAC.

5. Highway Landscaping Subcommittee Report Kathleen Sartorius reported for Kathy Wallace. The Subcommittee is currently working on putting together a packet for dissemination to each District Maintenance unit. This packet will also go out to the Tribes. There will be a meeting on May 20th at HQ from 1 p.m. to 3 p.m. Jack Broadband with the Office of State Landscaping is working on a Landscaping Restoration Project which will help to promote opportunities for small projects for Tribes. He is very interested in working with

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Native Americans on these projects. (Contact Kathleen Sartorius for more information.) Chairman Myers asked the question, “Does the restoration project use Native Plants?” Kathleen believes that this is Jack Broadband’s intent. Chairman Myers congratulated Kathleen for winning a 2004 TRANNY Award for her work. The Annual Tranny Awards is sponsored by the California Transportation Foundation (CTF.) The Department is a participant in the “Trannys”, but does not sponsor it.

6. **Legislative Subcommittee Report** Cynthia reported on the DRAFT Surface Transportation Reauthorization Legislative Report prepared under the guidance of attorney, James E. Glaze. Cynthia pointed out that the Indian Reservation Roads Program (IRR) funds historically, have been limited especially in California, and does not have any funding category for transit projects. However, the proposed IRR bill includes some funding for transit projects, improved safety projects, and more funding for construction and maintenance. Cynthia also covered several handouts in the Committee packets containing both Federal and State Laws affecting Tribes.

The Committee discussed a new BIA policy mandating the Tribes to include the Average Daily Traffic (ADT) counts for each road segment that is going to be incorporated in to the BIA’s Indian Reservation Roads Inventory System. Also, the Committee discussed the need for clarification on the BIA’s policy mandating the Tribe to have a Long Range Transportation Plan, without giving the Tribes enough resources or assistance to develop such a plan. Ben Scerato suggested inviting the BIA’s top officials to the next NAAC meeting to be able to get clarification on those issues.

Cynthia provided copies of State Senate Bill 1189. She mentioned that the original language in the bill would have given the Department the ability and authority to contract with Tribes. SB 1189 has been amended, and the new language limits contracting authority only for “activities related to on-reservation or off-reservation cultural resources management and environmental studies,” and does not give the Department the authority to contract with the Tribes for all of the Department’s activities.

Kazem Attaran explained the Department’s process and policy on reviewing and responding to proposed State bills. He mentioned when a proposed bill (that may directly or indirectly impact the Department) comes in to the Department for review; different Department’s functional units and branches are given an opportunity to review and respond to the proposed bill(s.) According to the subject of a bill, and after the appropriate functional units have reviewed the bill; the response of each functional unit is incorporated into a Department’s response and is sent to the Department’s Legislative Affairs Unit, the recommendations are sent to the Business Transportation & Housing (BT&H) Agency for approval or disapproval; and BT&H decides whether recommendations on the bill will be forwarded to the Governor’s office.

A motion was made for Chairman Myers to discuss the Committee’s concerns with the Director, particularly the issue that the wording in the *amended SB 1189 is too limiting...* Motion by Patricia Ockert; seconded by Barbara Burke. Vote 11 Yes, 0 Against.

Cynthia also mentioned Senate Bill No. 621, introduced by Battin, regarding Indian gaming and appropriations, sets up priorities/procedures for funding to local governments from the

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Indian Gaming Special Distribution Fund (IGSDF) for the purpose of mitigating impacts from tribal casinos, but did not authorize spending authority for counties that have no tribes paying into the IGSDF. Assembly Bill 3089 modifies SB 621 to authorize spending funds related to nine counties in Northern California who are effected by this bill. Assembly Bill 2579 is similar but relates to Southern California.

7. **California & Nevada Tribal Technical Assistance Program** Evan Hong introduced Lee Bigwater, TTAP's new Program Coordinator. Lee was the former Director of the Navajo Department of Transportation. Lee Bigwater introduced himself and stated that he has experience in the Navajo Nation, legislative experience, right-of-way on Indian reservations, and Environmental Justice experience. He wants to meet with everyone, and will need help in organizing and building the work that he does.

Discussion took place regarding TTAP's efforts in California. The Committee members expressed their concerns regarding the need for more training in California. It appears that there are more training opportunities taking place outside of California. Evan said to date there have been "25 trainings in California per year, since 2002. Patricia Ockert expressed the need for more training in Southern California.

Patricia Ockert also expressed her thanks to the Navajo Nation, represented by 27 young Navajo people who came in truckloads to help clean up after the Southern California Fires.

NEW BUSINESS:

1. **Report on the "Transportation Economic Development" Study** Kazem Attaran gave a presentation on the "Transportation for Economic Development" study that was done through his program. The purposes of the study was to take a close look at: low-income households, high unemployment areas and determine the relationship between economic development and the transportation system. The study describes a method to direct some of Caltrans' transportation investments to the state's worst pockets of poverty and joblessness. Methodology is intended to help Caltrans play a role in each poverty-stricken area's efforts to create jobs and relive economic hardships. To demonstrate the real benefits of such targeted investments, the report describes ten areas where specific transportation improvements could attract new business. For the first time, three areas with Tribal communities were included in the study.

Kazem explained that in general terms, transportation projects are based on traffic, and focus on traffic improvements projects that could relieve congestion. However, this study focuses on the relationship between economic development and transportation improvement.

The study; 1.) Identified areas that need economic development, and 2.) The projects that could be beneficial to promote economic development for the community. At least ten projects were identified to demonstrate the direct relationship between the transportation system and economic development. The objective was, to find out which transportation projects were key ingredients in economic development, and to create and increase jobs where needed. Hopefully, encouraging companies to build/operate their businesses in these areas. A copy of the study was distributed among the Committee members.

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Kazem referred to pages 11-1 in the study, and used SR 76 as an example of needing operational improvements, however, these improvements were not noted in either San Diego Association of Governments' (SANDAG) or Caltrans' planning documents, and yet Tribes had contributed over \$13 million for improvement of the route. Rebecca Davis, with SANDAG, mentioned that SANDAG is in the process of updating its Regional Transportation Plan. SANDAG is going to do a better job in coordinating and consulting with the Tribes.

2. Training Opportunities & Transit Funding Jake Smith, Chief, Division of Mass Transportation, Transportation Development Act (TDA) & Training, gave an overview of the Transportation, TDA & Training Program. Jake Smith stated that any local or tribal government could apply for the Federal 5311(f) Transit grant. This grant application is due to the Districts on June 15, 2004. Many Tribes are already receiving Federal 5310 Grants throughout the State. Gale McIntyre, Chief, Office of Mass Transportation, mentioned that the next call for applications for the 5310 Grant would go out October 2005. Federal money has been coming from federal transit programs since 1977. Transportation Development Act (TDA) funds have been provided for transit since 1971, funded from both gas and sales tax funds. TDA are State funds. Tribes can contract for transit services; Blue Lake Rancheria, for example, provides transit to the County. TDA responsibility falls on local agencies and Caltrans administers the program. A TDA Committee has been formed to try to improve communications with Regional Transportation Planning Agencies (RTPAs), transit dependent groups, and transit operators. Efforts are being made to meet in an environment to openly discuss efforts to improve communication. The Committee is reviewing the fair box ratio as one of their tasks. Jake announced that there is transit and para-transit management training available through Pepperdine University that will be held in Southern California on May 24th and the same training will be provided in Northern California in Sacramento on June 3rd. Flyers will soon go out to everyone. Barbara Burke mentioned that she had an excellent transit-training course from Arthur Bauer. These classes are free. She also said that Arthur Bauer is a great contact for networking. Jake distributed handouts for the above items and also for Free Vehicle Maintenance Workshops for anyone interested in taking any of the training.

Invitations to BIA– Ben Scerato requested that the NALB invite Kanu Patel, California Region's BIA Roads Engineer to the next meeting. For sake of time, it was suggested that Mr. Patel be asked to write a summary instead of presenting in person. Jila Priebe recently attended the Northern BIA Roads meeting, and there was some concern expressed among Tribal representatives who attended that meeting, that BIA is now requiring transportation plans that provide average daily traffic counts (ADTs), but with no money attached to the requirement. Mr. Scerato also requested that Mr. LeRoy Gishi, the California BIA Regional Director, and BIA Area Superintendents be invited to the next NAAC meeting on August 4, 2004.

Chairman Myers mentioned that Northern and Central California tribes could have a Reservation Transportation Authority (RTA) or a similar transportation consortium, like they have in Southern California. As a larger group working on transportation issues and funding, there could be greater benefits for the tribes in California.

Adjournment:

A Motion was made to adjourn meeting. Motion made by Patricia Ockert; seconded by Barbara Burke. Next meeting is August 4, 2004.

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